



DEPARTMENT OF ADMINISTRATIVE SERVICES



STATE OF CONNECTICUT

165 Capitol Avenue  
Hartford, CT 06106-1658

## Senate Bill 451

### AAC Government Administration, State Contracting, Regional School Boards and the State Elections Enforcement Commission

Government Administration & Elections Committee  
March 17, 2014

The Department of Administrative Services (DAS) provides the following comments on Senate Bill 451.

**Sections 4-7 – Set Aside.** DAS is statutorily charged with certifying companies that apply to be small and minority-owned businesses (SBEs and MBEs), eligible for set-aside contracts under state contracting laws, and to work with covered contracting entities to help them set their SBE and MBE goals and calculate their goals achievement. Currently, covered entities include state agencies and institutions. Sections 4-7 of SB 451 would add municipalities to the set-aside program, with the exception of “small municipalities” (defined in the bill as towns with a population of less than 70,000 residents) and “municipalities with a stronger set-aside program” than the state program. Our preliminary review of town populations indicates that potentially 5 towns (Waterbury, New Britain, Norwalk, Stamford, and Danbury) would be required to participate in the state Set Aside program.

Adding covered entities to the state Set-Aside program would impact DAS in two ways. First, DAS staff would have to work with new covered entities to establish SBE and MBE goals for those entities and help them calculate goals achievement. Unfortunately, the municipalities that SB 451 would add to the program do not maintain their budgets and spend data in CORE-CT – the state’s enterprise fiscal system – as do the state agencies that are currently subject to the Set-Aside program. As a result, DAS will have to work with the new covered municipalities to manually receive their data and perform the necessary work to set goals; an inefficient and time-consuming process. Second, we anticipate that more companies would apply for certification as SBEs and MBEs, given that they would be required to have these certifications to bid or do work on contracts set-aside by the newly covered municipalities. DAS would require additional resources to implement the changes in SB 451.

**Sections 8-11 – Qualified Partnerships.** These sections of the bill require DAS to expand the existing Janitorial Qualified Partnership Program to other contractual services that the

Commissioner of Administrative Services deems appropriate. DAS has worked collaboratively for nearly a decade with all stakeholders in the Qualified Partnership program, and believes the program is beneficial and working well. DAS is not opposed to exploring expansion of the program to other service areas, but respectfully asks that the Committee change the language of the bill to make this expansion permissive rather than mandatory.

Sections 12-17 - State Selection of Manufacturers and Metal Fabricators. The DAS Division of Construction Services is responsible for most of the state's large capital construction projects (with the exception of capital projects administered by UCONN, DOT, and those administered by higher education and other agencies up to statutorily-set thresholds). Pursuant to C.G.S. §§ 4b-55 through 4b-59, DAS may select consultants, who for the most part, are required to hold a professional license or registration issued by the State to perform design, administrative or financial services in connection with these projects. Consultants are competitively selected based upon qualifications, and fees are thereafter negotiated depending on the work required to be performed.

By way of background, DAS on-call contracts are professional service contracts administered for a variety of construction related services (i.e. architectural; civil engineering; structural engineering; environmental engineering consultant; etc.). Typically through an RFQ process, 4-5 firms are selected by panels in each discipline (category of work) to be on the on-call list, generally effective for 2 years. Firms are engaged when DAS issues a Task Letter for a particular project, assigned on a rotating basis to the firms on the on-call list. Traditionally, Task Letters per assignment range from \$50,000 - \$150,000, and in many cases involve much lower dollar amounts. Formal contracts also proceed through shortlist and interview panels, and a recommendation is presented to the Commissioner. Formal contracts have a significant dollar value as they typically involve services throughout the course of design and construction on major construction projects.

Sections 12 through 17 of the bill add "manufacturers," "fabricators," "manufacturer services," and "fabricator services" to the statutes currently reserved for professional consultants, though manufacturers and fabricators are not included in the definition of consultants. The bill also requires that, during the selection process, DAS shall consider the manufacturer's and fabricator's geographic location and knowledge of the state building code. This legislative proposal would drastically alter the design and construction process as well as its management by DAS. "Manufacturer" as defined in C.G.S. § 12-81(72) means "the activity of converting or conditioning tangible personal property by changing the form, composition, quality or character of the property for ultimate sale at retail or use in the manufacturing or a product to be ultimately sold at retail," while fabricating means "to make, build, create, produce or assemble components or tangible personal property work in a new or different manner...." These services are quite different than consultant services and, consequently, have been part of the actual construction work and bid processes, whether under C.G.S. § 4b-91 et seq. or § 4b-103. Those products/services are now procured on a project-specific basis

through a contract and bid process. The contracts are not held by the state, but rather by a general contractor or construction manager at risk. DAS does not believe that it makes sense to remove these large material bid packages from our existing contracting processes and convert them to professional service consultant contracts. Separating manufacturers or fabricators from the bid process and from contracts held by the general contractor or CMR would cause potential project coordination and management issues. It makes an exception for two subcontracting groups without good and sufficient reason, and exposes the State to a direct claim by a subcontractor contrary to C.G.S. § 4-61.

With regard to the requirement that the agency consider geographic proximity to the project when choosing metal manufacturers or fabricators, DAS respectfully suggests that there is no need to include these requirements into the DAS construction statutes, since the DAS Division of Construction Services has consistently reported almost 100% Connecticut firms participating on their contracts. As a result, we believe this language will have minimal to no impact on our selection processes. Further, knowledge of the building code is not a good measure to assess qualifications of manufacturers or fabricators, since they bid to drawings and specifications prepared by architects and engineers who have the responsibility of assuring that the plans and specifications are code compliant.

DAS thanks the Committee for the opportunity to provide comment. Please don't hesitate to contact Terrence Tulloch-Reid, [terrence.reid@ct.gov](mailto:terrence.reid@ct.gov), or Andrea Keilty, [andrea.keilty@ct.gov](mailto:andrea.keilty@ct.gov) if the Committee needs additional information.